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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/738,426	12/16/2003	Anthony J. Baerlocher	0112300-1819	8046

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EXAMINER	
PANDYA, SUNIT	

ART UNIT	PAPER NUMBER
3714	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/738,426	BAERLOCHER ET AL.	
	Examiner	Art Unit	
	Sunit Pandya	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgement is made of applicants' claim for priority to a previously patented application, number 09967243.

Oath/Declaration

2. Acknowledgment is made of applicant's Oath/Declaration meets the standard required by 35 U.S.C. 25 & 115.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 04/26/2004 is acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-11, 14, 15, 17-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy (US Pat 6,296,568) in view of Plinko (Premiered on TV show The Price Is Right 1983)

Claims 1, 4, 19, 29, 30, 31 and 32: Tracy teaches of a display controlled by the processor (col. 1, line 54-55). Tracy teaches of a display at the base, which contains plurality of locations, each of which defines an outcome for the game and an award associated with each location (figure 1). Tracy teaches a moving display device or an object falling from the start position, to have equal probability of deflecting to either right or left, thus creating different a predetermined paths, since the probability of the object deflecting either to the left or to the right is even, from start position to each of the award positions (col. 3, line 27-29). Tracy also teaches of a path from the starting position to each of the award position, which is determined by the processor (figure 4). Tracy also teaches that the first award position, which is closer in proximity to the starting position, is more likely to be generated than the second award position (figure 4, probability mentioned for each peg in the bottom row confirms the award generated probability for first award, closer to the starting position, compared to second award farther away from starting position). Once the processor determines that the object has landed at a location defining a winning outcome, the processor issues the reward to the player (col. 4, line 37-39). Tracy however fails to teach of a start area defined by plurality of different start positions and an input device operable to enable a player to select one of the start positions, Tracy also discloses a triangular/pyramid shape for the game board.

Plinko disclose a square gaming board shape (figure 1) with plurality of different start positions, which are player operable input devices that allows the player to select the starting position (figure 9). It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified gaming device taught by Tracy to have included a player selectable starting point for the object to drop from, thus allowing player to be in control and making the game more exciting and stimulating player's interest.

Claims 2, 14 and 20: Plinko teaches of a gaming device, which displays the starting position on the display device (figure 9).

Claims 5, 6 and 26: Tracy teaches plurality of locations, each of which will define an outcome for the game (col. 1, line 59-60), and an award associated with each location (par 4, line 37-39 and fig 2).

Claims 7, 10, 18, 22, 23 and 28: Tracy teaches of plurality of pins depicted on the gaming device extending from the apex to the base (col. 1, line 57-59) which deflects the game character from one side to the other based on path randomly determined by the processor and awards the player an award depending on the end location of the object or a game character (col. 2, line 1-9 and fig 4).

Claims 8, 9 and 24: Tracy teaches of a path from the starting position to each of the award positions, which is determined by the processor, and the probability related with the first award position, which is closer in proximity to the starting position, is more likely to be generated than the second award position (figure 4). Probability stated for each award location in the bottom row in figure 4, confirms the award-generated

probability for the first award, closer in proximity to the starting position, compared to second award farther away from starting position. However Tracy fails to teach of a start area defined by plurality of different start positions and an input device operable to enable a player to select one of the start positions, Tracy also discloses a triangular/pyramid shape for the game board.

Plinko disclose a square gaming board shape (figure 1) with plurality of different start positions, which are player operable input devices that allows the player to select the starting position (figure 9). It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified gaming device taught by Tracy to have included a player selectable starting point for the object to drop from, thus allowing player to be in control and making the game more exciting and stimulating player's interest.

Claims 11, 17, 25, 27, 33 and 34: Tracy teaches of a gaming device which includes a greater number of paths from the starting position to the first one of the award positions, than a number of paths from the starting position to the second and/or an intermediate award positions that is farther away from the start position. This can be seen in figure 4, where the apex is the starting position and it can be noted that the awards located directly under the starting position have higher probability of achieving, than the awards located farther away from there, thus proving that there exist a greater number of paths from the starting position to the first award positions, which are located under the starting position, than to the second and/or an intermediate award position that is farther away from the start position.

Claims 12 and 13: Tracy teaches of a gaming device with award displayed by the display device in association with their respected positions on the base location (col. 4, line 37-41), wherein greater number of paths from start to award positions are generated for award positions closer in proximity then the number of paths to the award position further in proximity than the start position (figure 4).

However Tracy fails to teach that two of the award positions are associated with the same award. Plinko discloses of a gaming device that assigns two of the award positions to the same award (figures 2 & 7 discloses two award positions associated with same award). It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Tracy's gaming device to have included multiple award positions associated with the same award, thus providing better odds for players to win big awards.

Claim 15: Plinko discloses a gaming device wherein selected start position is determined by a random event, where a player randomly selects one of the starting positions for the object to drop from (figure 9 displays multiple starting positions to pick from).

Claim 16: Tracy discloses a gaming device wherein the selected start position is determined by a game displayed by the display device (figure 1, teaches of the start position being displayed by the display device).

Claims 35-38: Tracy teaches of a gaming device wherein start position includes the same total number of paths. However Tracy fails to teach of a start area defined by plurality of different start positions and an input device operable to enable a

player to select one of the start positions, Tracy also discloses a triangular/pyramid shape for the game board.

Plinko disclose a square gaming board shape (figure 1) with plurality of different start positions, which are player operable input devices that allows the player to select the starting position (figure 9). It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified gaming device taught by Tracy to have included a player selectable starting point for the object to drop from, thus allowing player to be in control and making the game more exciting and stimulating player's interest.

6. Claims 3 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy (as applied to claims above), as modified by Plinko (as applied to claims above), and in view of Dietz (US Pat 5,704,835).

Claims 3 and 21: Tracy discloses the inventions substantially as claimed except for the input device operable which includes a touch screen.

Dietz discloses a gaming apparatus, which includes a touch screen, which is electronically connected to the processor (col.8, line 57). It would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Tracy's gaming device to have included a touch screen on the gaming machine to reduce the cost on maintaining hardware to operate the machine and increase player participation.

Response to Arguments

7. Applicant's arguments with respect to claim1-38 have been considered but are moot in view of the new ground(s) of rejection.

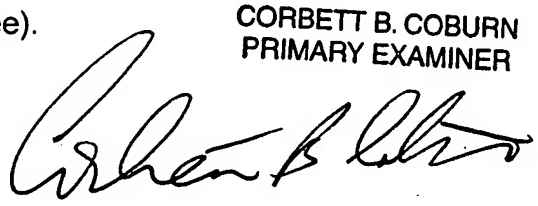
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunit Pandya whose telephone number is (571) 272-2823. The examiner can normally be reached on M - F: 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert OLSZEWSKI can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CORBETT B. COBURN
PRIMARY EXAMINER



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